

Appl. No. 10/045,495
Amdt. Dated January 31, 2005
Reply to Office action of December 1, 2004

REMARKS

Claims 1-17 are pending in the application. Independent claims 1, 9, and 17 stand rejected under 35 U.S.C. 102(a) as being anticipated by KenKnight et al (6,266,563). Dependent claims 2-6, 8, 10-14 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over KenKnight in view of Thompson et al. (5,902,324). Dependent claims 2-7 and 10-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over KenKnight in view of Hartlaub (6,134,470). The Examiner relies upon the reasons set forth in the previous Office Action for these rejections and made the Office Action Final. For the reasons discussed below, it is respectfully requested that the Examiner reconsider and withdraw the rejections and allow claims 1-17 as amended.

It is noted that an Information Disclosure Statement is being submitted which provides the results of an International Search Report. As provided therewith, the search results were received from a foreign patent office not more than 3 months before the filing of the IDS. The IDS is being submitted by mail in view of the fact that some of the references are not U.S. patents or published applications. However, a copy of the Form 1449 is being submitted herewith for the Examiner's convenience.

The Office Action points to column 9 of KenKnight for describing possible electrode pairings and to column 11 for "different therapy adaptations" including recording of left ventricular and right ventricular electrograms which are separately fed into a sensing module "to determine the optimum time for the defibrillation shock." It is respectfully submitted that this teaching is insufficient to anticipate applicants' claimed invention. The only teaching of what can be done with the recorded signal is at lines 32-36 of column 11: "The feature extraction algorithm can examine features from each electrogram signal alone or in a differential fashion. As previously, the features extracted are then used to guide therapy adaptation and optimize therapy delivery." At best this is nebulous hand waving without any concrete teaching of how to use the timing of sensed signals from each separate ventricle to control the antitachycardia pacing to each separate ventricle. However, in order to amplify the distinction between the vague teaching of KenKnight and applicants' claimed invention, independent claims 1, 9 and 17 have been amended to include the limitation that the timing of the first and second antitachycardia pacing pulses overlaps in time at least in part. This feature of the invention is clearly illustrated in Figures 3 and 4 and the discussion thereof at paragraphs 67-69. It is respectfully submitted that no new matter is added by this amendment and entry of the amended claims is respectfully requested.

As amended, claims 1, 9 and 17 clearly distinguish over KenKnight. The disclosure of KenKnight at column 6, lines 12-15 clearly teaches away from these claims. "Antitachycardia pacing may be delivered from the right ventricle and then the left ventricle electrode, or may be delivered from the left ventricle and then the right ventricle electrode." There is no teaching or suggestion in KenKnight of overlapping antitachycardia pacing pulses in the left and right ventricles with the timing being separately controlled by the signals sensed from the

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corresponding ventricle. Withdrawal of the rejection of these claims under 35 USC 102(a) is respectfully requested.

The rejection of claims 2-6, 8, 10-14 and 16 under 35 U.S.C. 103(a) as being unpatentable over KenKnight in view of Thompson et al. (5,902,324) is respectfully traversed. As discussed in the prior Amendment, the addition of Thompson fails to address the missing teaching discussed above regarding claims 1, 9, and 17. Thus, it is respectfully submitted that claims 2-6, 8, 10-14 and 16 are patentable over KenKnight in view of Thompson. Withdrawal of the rejection is respectfully requested.

The rejection of claims 2-7 and 10-16 under 35 U.S.C. 103(a) as being unpatentable over KenKnight in view of Hartlaub (6,134,470) is respectfully traversed. The combination of KenKnight and Hartlaub suffers from the same shortcomings as those discussed above with regard to the combination of KenKnight and Thompson. Hartlaub does not provide any of the missing teaching. Withdrawal of the rejection is respectfully requested.

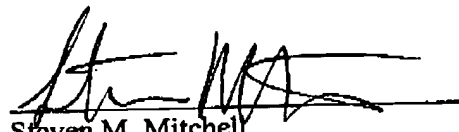
In conclusion, it is respectfully submitted that claims 1-17, as amended, clearly distinguish over KenKnight taken alone or in combination with Thompson or Hartlaub. Allowance and passage to issue of claims 1-17 is therefore respectfully requested.

Respectfully submitted,
Mark Kroll, et al.

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